

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

MARK C. McNEILL, et al.	:	CIVIL ACTION
	:	
v.	:	
	:	
BOROUGH OF FOLCROFT, et al.	:	NO. 13-3592

ORDER

AND NOW, this 22nd day of November, 2013, for the reasons set forth in the accompanying Memorandum, it is hereby ORDERED that:

(1) the motion of defendants for partial dismissal under Rule 12(b)(6) (Doc. #6) is GRANTED in part and DENIED in part;

(2) the motion to dismiss Count I of the complaint against Robert Ruskowski is GRANTED insofar as it alleges a claim under 42 U.S.C. § 1983 for violation of the Fourth and Eighth Amendments as incorporated by the Fourteenth Amendment;

(3) the motion to dismiss Count I of the complaint against Robert Ruskowski is GRANTED insofar as it alleges a claim under 42 U.S.C. § 1983 for violation of substantive due process under the Fourteenth Amendment based on a state-created danger or based on supervisory liability from participation in any violation of decedents' rights;

(4) the motion to dismiss Count I of the complaint against Robert Ruskowski is DENIED insofar as it alleges a claim under 42 U.S.C. § 1983 for violation of substantive due process

under the Fourteenth Amendment based on supervisory liability as a policymaker;

(5) the motion to dismiss is DENIED as to Count II of the complaint;

(6) the motion to dismiss is GRANTED as to Count III of the complaint;

(7) the motion to dismiss is GRANTED as to Counts VI and VII of the complaint insofar as those counts relate to defendant Robert Ruskowski; and

(8) the motion to dismiss is GRANTED as to any claims under the Constitution of Pennsylvania.

BY THE COURT:

/s/ Harvey Bartle III

J.